

United States District Court

**EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

V.

BYRON EUGENE JAGOURS

§
§
§
§
§

CASE NO. 4:05CR173

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on March 11, 2008 to determine whether the Defendant violated his supervised release. The Defendant was represented by Ralph Johnston Hagood. The Government was represented by Maureen Smith.

Byron Eugene Jagours was sentenced on July 20, 2006, before The Honorable Michael H. Schneider of the Eastern District of Texas after pleading guilty to the offense of Conspiracy to Distribute or Dispense or Possess with Intent to Distribute or Dispense Cocaine Base and Marijuana, a Class C felony. Byron Eugene Jagours was subsequently sentenced to 16 months imprisonment followed by a three year term of supervised release. On January 12, 2007, Byron Eugene Jagours completed his period of imprisonment and began service of the supervision term.

On January 14, 2008, the U. S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (Dkt. 690). The petition asserted that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance. Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court;

(2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; (3) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U. S. Probation Office, until such time as Defendant is released from the program by the probation officer.

The petition alleges that Defendant committed the following violations: (1) On September 7, 2007, the defendant submitted a urine specimen which tested positive for cocaine. He admitted verbally and in writing that he used cocaine on or about September 5, 2007; (2) On October 4, 2007, the defendant submitted a urine specimen which tested positive for cocaine. He admitted verbally and in writing that he used said substance; (3) On November 13, 2007, the defendant submitted a urine specimen which tested positive for cocaine. He admitted verbally and in writing that he used said substance; (4) On January 8, 2008, the defendant submitted a urine specimen which tested positive for cocaine. He admitted verbally and in writing that he used said substance; (5) The defendant failed to submit to random drug testing as directed with the Alterman Group, Plano, TX, on September 17, October 12, 19, 25, 29, November 1, 5, 9, 26, December 7, 11, 13, 19, 20, 2007, and January 3, 2008.

The Defendant entered a plea of true to all violations. At the hearing, the Court recommended that Defendant's supervised release be revoked. At the hearing, the Defendant was informed of his right to object to the recommended sentence and Defendant waived any objections.

RECOMMENDATION

**The Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months and one (1) day, with no supervised release to follow.
SIGNED this 12th day of March, 2008.**


CAROLINE M. CRAVEN
UNITED STATES MAGISTRATE JUDGE